

# Notice of Allowability

Application No.

09/593,759

Examiner

Helen F. Pratt

Applicant(s)

GIVEN ET AL.

Art Unit

1761

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4-13-04.
2. ☒ The allowed claim(s) is/are 1, 2, 4-11, 13-18, 20, 25, 29-35, renumbered as claims 1, 2, 3, 4, 6-15, 17, 16, 18, 19, 5, 20-25.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Holowacz on 5-10-04.

The application has been amended as follows: in claim 10, line 2, "comprising" has been deleted and--consisting of--inserted therein.

In claim 10, line 3, "a ready to drink beverage" has been deleted and--purified water--inserted therein.

In claim 13, lines 1 and 2, "The" has been deleted and--A--inserted therein and "according to claim 10, further comprising the step of" has been deleted and--for producing a calcium fortified beverage composition consisting of: - inserted therein.

In claim 13 line 2, after "consisting of"--(a) combining purified water and a calcium source consisting of a hydrate form of calcium sulfate to form a solution, wherein said calcium source provides about 10% U.S. RDV of calcium per serving of said calcium fortified beverage composition; - has been inserted.

In claim 13, line 7, before "adding" - (b)-has been inserted--and after "supplements"--prior to step (b)--has been deleted and - ; and (c) preserving the solution to form the calcium fortified beverage composition--has been inserted therein.

In claim 17, line 1, "The" has been deleted and—A—inserted therein, and after "method" "according to claim 10, further comprising the step of" has been deleted and—for producing a calcium fortified beverage composition consisting of:

(a) combining purified water and a calcium source consisting of a hydrate form of calcium sulfate to form a solution,

wherein said calcium source provides about 10% U.S. RDV of calcium per serving of said calcium fortified beverage composition; - has been inserted therein.

In claim 17, line 2, before "adding one or more flavor", - (b)—has been inserted, and "prior to step (b)" has been deleted, and - ; and (c) preserving the solution to form the calcium fortified beverage composition—has been inserted therein.

Please cancel claim 19.

35. (New) A method for producing a calcium fortified beverage composition consisting of:

(a) combining purified water and a calcium source consisting of a hydrate form of calcium sulfate to form a solution,

wherein said calcium source provides about 10% U.S. RDV of calcium per serving of said calcium fortified beverage composition;

(b) adding one or more non-mineral nutritional supplements;

( c ) adding one or more flavor components; and

(d) preserving the solution to form the calcium fortified beverage composition.

The following is an examiner's statement of reasons for allowance: no prior art was found which used only the calcium sulfate as the calcium source in a beverage.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 571-272-1404. The examiner can normally be reached on Monday-Friday, 9:30-6:00 P. M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hp 5-11-04

*H. Pratt*  
**HELEN PRATT**  
**PRIMARY EXAMINER**